

By: Hughes

S.B. No. 1041

A BILL TO BE ENTITLED

AN ACT

1
2 relating to unlawful employment practices based on sexual
3 harassment, including complaints and civil actions arising from
4 those practices.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

6 SECTION 1. Section 21.055, Labor Code, is amended to read as
7 follows:

8 Sec. 21.055. RETALIATION. (a) An employer, labor union, or
9 employment agency commits an unlawful employment practice if the
10 employer, labor union, or employment agency retaliates or
11 discriminates against a person who, under this chapter:

- 12 (1) opposes a discriminatory practice;
13 (2) makes or files a charge;
14 (3) files a complaint; or
15 (4) testifies, assists, or participates in any manner
16 in an investigation, proceeding, or hearing.

17 (b) The protections against retaliation and discrimination
18 provided by this section apply to a person who engages in an act
19 listed under Subsection (a) in relation to a discriminatory
20 practice based on sexual harassment under Subchapter C-1.

21 SECTION 2. Section 21.141(2), Labor Code, is amended to
22 read as follows:

23 (2) "Sexual harassment" means an unwelcome sexual
24 advance, a request for a sexual favor, or any other verbal or

1 physical conduct of a sexual nature if:

2 (A) submission to the advance, request, or
3 conduct is made a term or condition of an individual's employment,
4 either explicitly or implicitly;

5 (B) submission to or rejection of the advance,
6 request, or conduct by an individual is used as the basis for a
7 decision affecting the individual's employment;

8 (C) the advance, request, or conduct has the
9 purpose or effect of unreasonably interfering with an individual's
10 work performance; or

11 (D) the advance, request, or conduct has the
12 purpose or effect of creating an intimidating, hostile, abusive, or
13 offensive working environment.

14 SECTION 3. Section [21.254](#), Labor Code, is amended to read as
15 follows:

16 Sec. 21.254. CIVIL ACTION BY COMPLAINANT. Except as
17 provided by Section 21.2545, within [~~Within~~] 60 days after the date
18 a notice of the right to file a civil action is received, the
19 complainant may bring a civil action against the respondent.

20 SECTION 4. Subchapter [F](#), Chapter [21](#), Labor Code, is amended
21 by adding Section 21.2545 to read as follows:

22 Sec. 21.2545. CIVIL ACTION BY COMPLAINANT BASED ON SEXUAL
23 HARASSMENT. Notwithstanding Sections [21.201](#), [21.211](#), and [21.254](#), a
24 person may bring a civil action for damages or other relief arising
25 from an unlawful employment practice based on sexual harassment
26 under Subchapter C-1 regardless of whether:

27 (1) the person has filed a complaint with the

1 commission based on the grievance; or
2 (2) if the person has filed a complaint with the
3 commission based on the grievance, the complaint is still pending
4 or the person has not received a notice of the right to file a civil
5 action.

6 SECTION 5. Section 21.256, Labor Code, is amended to read as
7 follows:

8 Sec. 21.256. STATUTE OF LIMITATIONS. A civil action may not
9 be brought under this subchapter later than the second anniversary
10 of the date the complaint relating to the action is filed, except
11 that for a civil action arising from an unlawful employment
12 practice based on sexual harassment under Subchapter C-1 filed
13 without filing a complaint as described by Section 21.2545(1), the
14 civil action may not be brought later than the second anniversary of
15 the date the conduct constituting an unlawful employment practice
16 under Subchapter C-1 occurred.

17 SECTION 6. Section 21.2585, Labor Code, is amended by
18 amending Subsection (d) and adding Subsection (f) to read as
19 follows:

20 (d) Except as provided by Subsection (f), the [The] sum of
21 the amount of compensatory damages awarded under this section for
22 future pecuniary losses, emotional pain, suffering, inconvenience,
23 mental anguish, loss of enjoyment of life, and other nonpecuniary
24 losses and the amount of punitive damages awarded under this
25 section may not exceed, for each complainant:

26 (1) \$50,000 in the case of a respondent that has fewer
27 than 101 employees;

1 (2) \$100,000 in the case of a respondent that has more
2 than 100 and fewer than 201 employees;

3 (3) \$200,000 in the case of a respondent that has more
4 than 200 and fewer than 501 employees; and

5 (4) \$300,000 in the case of a respondent that has more
6 than 500 employees.

7 (f) Subsection (d) does not apply to a civil action for
8 damages arising from an unlawful employment practice based on
9 sexual harassment under Subchapter C-1. A civil action described
10 by this subsection is subject to Section 41.008, Civil Practice and
11 Remedies Code.

12 SECTION 7. The changes in law made by this Act apply only to
13 a claim or action based on conduct occurring on or after the
14 effective date of this Act. A claim or action based on conduct
15 occurring before that date is governed by the law in effect on the
16 date the conduct occurred, and the former law is continued in effect
17 for that purpose.

18 SECTION 8. This Act takes effect September 1, 2023.